

REMARKS

STATUS OF THE CLAIMS

Claims 55-88 were pending in this application. Claims 56, 62, and 66-88 have been cancelled without prejudice. Claim 55, 57, 61, 63, and 65 are amended herein. Following entry of the amendments claims 55, 57-61, and 63-64 will be pending and at issue.

SUPPORT FOR AMENDMENTS TO THE CLAIMS

Claims 55 and 61 have been amended to recite “has at least 90% sequence identity.” Support for the amendment can be found throughout the specification as filed, e.g., page 15, line 22-30 and page 31, lines 19-20.

The amendments to the claims therefore add no new matter and entry is respectfully requested.

RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action, the Examiner restricted the claims to eight groups as follows.

I. Claims 55-60, 64, 65, and 71-74 “drawn to T1R3 polypeptides;” Applicant notes that, instead, claims 55-60, 64, and 65 are drawn to isolated sweet taste receptors comprising T1R3; claims 71-74 are drawn to T1R3 polypeptides;

II. Claims 61-63, and 66, drawn to “T1R3/T1R2 heteromeric polypeptides;” Applicant notes that, instead, dependent claims 61-63 and independent claim 66 are drawn to isolated sweet taste receptors comprising T1R3 and T1R2;

III. Claims 67, 69, 70, and 75 drawn to “T1R3 binding antibodies;” Applicant notes that, instead, claims 67, 69, and 70 are drawn to antibodies that bind to sweet taste receptors comprising T1R3; claim 75 is drawn to antibodies that bind T1R3 polypeptides;

IV. Claims 66 and 68, drawn to “T1R3/T1R1 binding antibodies;” Applicant notes that, instead, claims 68, 69, and 70 are drawn to antibodies that bind to sweet taste receptors comprising both T1R3 and T1R2 (not T1R1);

V. Claim 84, drawn to T1R2 binding antibodies;

VI. Claims 76-79, drawn to T1R3 polynucleotides;

VII. Claims 80-83, drawn to T1R2 polypeptides;

VIII. Claims 85-88, drawn to T1R2 polynucleotides.

In addition, the Examiner required election of a single disclosed species, such species consisting of single SEQ ID NO: for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Response to Restriction Requirement

Applicant provisionally elects Group I with traverse; Applicant elects the species of SEQ ID NO:20. All pending claims are readable on the election of the species T1R3 sequence SEQ ID NO:20.

In the event that the Examiner agrees with the traverse and follows linking claim practice to also examine claims drawn to sweet taste receptors comprising T1R3 and T1R2, Applicant elects the species T1R2 sequence SEQ ID NO:8. Pending claims 61 and 63 are readable on the election of the species T1R2 sequence SEQ ID NO:8.

Traverse

Applicant traverses the restriction requirement between Groups I and II. Group I is drawn to isolated sweet taste receptors comprising T1R3. In contrast to the Examiner's grouping of claims 61, 62, 63, and 66 into a separate group, Applicant believes that all of claims 55-65 are drawn to isolated sweet receptors comprising T1R3; dependent claims 61 and 63 recite another component of the sweet taste receptor, e.g., T1R2. (Applicant has cancelled herein claims 62 and 66). Group II, now claims 61 and 63, is merely a species of Group I.

Rather than restricting the two groups, Applicant believes the Examiner can follow linking claim practice: generic claim 55 links claims 58 with claims 61 and 63. Applicant suggests that the restriction requirement between Group I (sweet taste receptors comprising T1R3) and Group II (sweet taste receptors comprising T1R3 and T1R2) should be subject to the non-allowance of the linking claim, e.g., genus claim 55. Upon the allowance of linking claim 55, the restriction

requirement between Group I and II should be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims should be entitled to examination in the instant application.

CONCLUSION

Consideration of the claims is respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Preliminary Amendment, the Examiner is invited to telephone Applicant's representative at (415) 875-2316.

Respectfully submitted,
NICHOLAS RYBA ET AL

Dated: 5/07/06

By: /Susan T. Hubl/
SUSAN T. HUBL, Ph.D. Patent Agent
Reg. No.: 47,668
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel: (415) 875-2316
Fax: (650) 938-5200